

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

EVA MARISOL DUNCAN,)
Plaintiff,)
V.)
JPMORGAN CHASE BANK, N.A.,)
Defendant.)
CIVIL ACTION NO. SA-14-CA-912-FB

**ORDER REGARDING OBJECTOR THOMAS L. COX JR.'S
MOTION FOR AWARD OF ATTORNEYS' FEES AND EXPENSES**

Before the Court are Objector Thomas L. Cox Jr.'s Motion for An Award of Attorneys' Fees and Expenses (docket no. 95) and the response filed by class counsel (docket no. 96) in opposition thereto. Mr. Cox did not file a discretionary reply. After careful consideration, the Court is of the opinion the motion must be dismissed for lack of jurisdiction and/or as moot.

BACKGROUND

After this Court’s amended order and amended judgment were filed on June 20, 2016, Mr. Cox, a licensed attorney and pro se objector to the settlement of this consumer class action, filed a notice of appeal from the amended order and amended judgment. He also filed a motion seeking an award of attorney’s fees and expenses. Class counsel filed a response in opposition to the motion. Before the motion was decided, Mr. Cox amended his notice of appeal to include attorney’s fees and expenses, contending his “[M]otion for Attorney’s Fees dated June 27, 2016, dkt 95 [is] overruled as a matter of law.”

DISCUSSION

The filing of the amended notice of appeal operated to transfer jurisdiction to the Fifth Circuit and left no jurisdictional lynchpin in this District Court to entertain the motion. *See Griggs v. Provident*

Consumer Discount Co., 459 U.S. 56, 58 (1982) (“The filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.”). The filing of the amended notice of appeal also operated to moot the motion for attorney’s fees and expenses based on Mr. Cox’s statement that it was “overruled as a matter of law.” *See Environmental Conservation Org. v. City of Dallas*, 529 F.3d 519, 524-25 (5th Cir. 2008) (explaining there is no live case or controversy and matter must be dismissed as moot when movant recognizes there is “no legally cognizable interest in the outcome of the [proceeding]”). Therefore, although the motion was submitted and briefed before the amended notice of appeal was filed, an order of this Court disposing of the motion would be a nullity. Nevertheless, for the information of the Appellate Court, this Court has reviewed the motion and response, along with the entire record in this matter, and would deny the request for attorney’s fees and expenses for the reasons stated by class counsel in their opposition to the motion.

IT IS THEREFORE ORDERED that Objector Thomas L. Cox Jr.’s Motion for an Award of Attorneys’ Fees and Expenses (docket no. 95) is DISMISSED for lack of jurisdiction and/or as moot.

It is so ORDERED.

SIGNED this 2nd day of September, 2016.



FRED BIERY
UNITED STATES DISTRICT JUDGE